

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

TERRANCE D. MORTON, SR.,

Plaintiff(s),

vs.

CVS CORPORATION,

Defendant(s).

Case No. 2:16-cv-02307-RFB-NJK

**ORDER**

On October 4, 2016, the Court screened Plaintiff's complaint as required by 28 U.S.C. § 1915. Docket No. 5. The Court found that Plaintiff failed to establish subject matter jurisdiction. *Id.* at 3-4. In particular, the Court found that Plaintiff had failed to allege that the Court has federal question jurisdiction, and also failed to allege a sufficient amount in controversy such that diversity jurisdiction exists. *Id.* at 4. The Court ordered that, to the extent Plaintiff believed he could cure that defect, he must file an amended complaint by November 1, 2016. *Id.* The Court further warned Plaintiff that dismissal of this case could result from failing to file an amended complaint.

To date, no amended complaint has been filed. Instead, Plaintiff (who is proceeding *pro se*) filed a motion to serve Defendant. Docket No. 7. That motion is premature, as the Court will not order service through the United States Marshal Service unless and until Plaintiff has properly pled that this Court has subject matter jurisdiction.

To be clear, this case cannot proceed unless Plaintiff files an amended complaint that resolves the defects identified in the order at Docket No. 5. To ensure Plaintiff has an opportunity to amend

1 his pleadings, the Court will extend the deadline to file an amended complaint to November 22,  
2 2016.

3 For the above reasons, the Court hereby **ORDERS** that:

- 4 1. The motion to serve Defendant at Docket No. 7 is **DENIED** as premature.
- 5 2. Plaintiff will have until **November 22, 2016**, to file an Amended Complaint, if he  
6 believes he can correct the noted deficiencies in Docket No. 5. If Plaintiff chooses  
7 to amend the complaint, Plaintiff is informed that the Court cannot refer to a prior  
8 pleading (i.e., his original Complaint) in order to make the Amended Complaint  
9 complete. This is because, as a general rule, an Amended Complaint supersedes the  
10 original Complaint. Local Rule 15-1(a) requires that an Amended Complaint be  
11 complete in itself without reference to any prior pleading. Once a plaintiff files an  
12 Amended Complaint, the original Complaint no longer serves any function in the  
13 case. Therefore, in an Amended Complaint, as in an original Complaint, each claim  
14 and the involvement of each Defendant must be sufficiently alleged. **Failure to**  
15 **comply with this order will result in the recommended dismissal of this case.**
- 16 3. The Clerk's Office is **INSTRUCTED** to serve Plaintiff with this order, and with a  
17 copy of the Court's previous order at Docket No. 5.

18 IT IS SO ORDERED.

19 Dated: November 7, 2016

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22 NANCY J. KOPPE  
23 United States Magistrate Judge  
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